

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 07/2021)

United States Courts Southern
District of Texas
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS
_____ DIVISION

Jan 11, 2022

Nathan Ochsner, Clerk of Court

THOMAS O. MARTINEZ #24846
Plaintiff's Name and ID Number

SAN PATRICK COUNTY JAIL/SINTON, TX. 78387
Place of Confinement

CASE NO. _____
(Clerk will assign the number)

v.

RAY NEIADO 300 N. RACHAL AVE. SINTON, TX. 78387
Defendant's Name and Address

MR. LERMA 300 N. RACHAL AVE. SINTON, TX. 78387
Defendant's Name and Address

Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$52.00 for a total fee of **\$402.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$52.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: IN MAY, 2021
2. Parties to previous lawsuit:
Plaintiff(s) THOMAS O. MARTINEZ
Defendant(s) STEPHEN TOROK
3. Court: (If federal, name the district; if state, name the county.) SOUTHERN DISTRICT OF TEXAS
4. Cause number: 2:21-CV-00113
5. Name of judge to whom case was assigned: D/K
6. Disposition: (Was the case dismissed, appealed, still pending?) I THINK IT WAS DISMISSED
7. Approximate date of disposition: JULY 21, 2021

II. PLACE OF PRESENT CONFINEMENT: SAN PATRICIO COUNTY JAIL / SINTON, TX. 78387

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?

YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: THOMAS O. MARTINEZ

300 NORTH RACHAL AVE. SINTON, TX. 78387

P.O. BOX 1382 SAN PATRICIO COUNTY JAIL SINTON, TX. 78387

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: OFFICER LERMA C/O SAN PATRICIO COUNTY JAIL

300 N. RACHAL AVE. SINTON, TX. 78387

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

CAUSING ME TO LOSE MONEY ON TABLETS, ENFORCING CORPORAL PUNISHMENT, LOSS OF SLEEP

Defendant #2: RAY NEVADO

300 N. RACHAL AVE. SINTON, TX. 78387

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

ENFORCING CORPORAL PUNISHMENT, LOSS OF MONEY ON TABLETS - ~~LOS~~ COMMISSARY RESTRICTION

Defendant #3: N/A

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4: N/A

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: N/A

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

MR. LERMA PLACED THE WHOLE DORM ON TABLET & COMMISSARY RESTRICTION BECAUSE ANOTHER OFFENDER HAD A TOWEL HANGING ON A LINE, THIS WAS IN DORM "H" I LOST MONEY ON TABLET FOR RENTING FEES, PURCHASING MOVIES, T.V. SHOWS, AND NEWS MEDIA. MR. LERMA ALSO CONDUCTED SHAKE-DOWNS AFTER RACK-UP TIME, DEPRIVING ME (US) OF SLEEP. RAY NEVADO PLACED THE WHOLE DORM ON COMMISSARY & TABLET RESTRICTION BECAUSE ONE OFFENDER WAS MAKING WINE, THE OFFENDER ADMITTED TO MAKING THE WINE, BUT THE WHOLE DORM WAS STILL PLACED ON RESTRICTION FOR NO REASON. LOST MONEY FOR RENTING THE TABLET, LOST MONEY ON MOVIES PURCHASED AND T.V. SHOWS AND THE NEWS STAND LOST COMMISSARY PRIVILEGES.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

TO BE COMPENSATED FOR LOST FUNDS, MENTAL STRESS & ANGUISH AND FOR OFFICERS TO BE RHD REMANDED AND OR RELIEVED OF DUTY WITHOUT PAY

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

THOMAS O. MARTINEZ A.K.A. TIGER

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

BEEN TO PRISON 4 OR 5 TIMES DONT REMEMBER T.D.C.J.'S #'S

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ YES ☐ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): N/A

2. Case number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? YES ☐ YES ☐ NO

N/A

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES / NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: 4-1-2022
DATE

THOMAS O. MARTINEZ
Thomas O. Martinez
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 4th day of JANUARY, 20 22.
(Day) (month) (year)

THOMAS O. MARTINEZ
Thomas O. Martinez
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

SAN PATRICIO COUNTY JAIL INMATE GRIEVANCE FORM

Definition:

1. Violation of Civil Rights
2. Criminal Acts
3. Unjust Denial or Restriction of Inmate Privileges
4. Prohibited act by facility staff

TO: GRIEVANCE OFFICER

FROM: THOMAS O. MARTINEZ
Name of Inmate

H
Cell Block

I wish to file a grievance. I certify that my statement is true and correct to the best of my knowledge and belief.

NATURE OR DESCRIPTION OF THE PROBLEM:

(Please print or write legibly. Include all dates, times and names of persons involved, including witnesses if necessary)

ALLOW FACILITY STAFF ALLOWING OFFICERS (C/O's) TO LEAVE THE RADIO ON UNTIL MIDNIGHT SO LOUD THAT INMATES CANT SLEEP. THIS ALSO IS CRUEL AND UNUSUAL PUNISHMENT. INMATES ARE ALLOWED CERTAIN HOURS OF SLEEP OR RACK-UP-TIME. ALLOWING OFFICERS TO DO SHAKE DOWNS AT RANDOM AFTER RACK UP TIME. WEVE BEEN HARRASSED BETWEEN THE HOURS OF 11:00 P.M. TO 1:00 A.M. IN THE PAST. THIS HAS BEEN GOING ON SINCE IVE BEEN HERE FROM APRIL 2021 THRU JULY 2021

(If more space needed, continue on back)

8-25-201
Date

Thomas Martinez
Inmate Signature

DISPOSITION OF GRIEVANCE

Inmate Name: Thomas Martinez
Cell Location: H Block

Your grievance has been reviewed and disposed of as follows:

RADIO ISSUE has been addressed with staff.
I am checking on the cell search issue 1st response 9/7/21
Cell searches are done randomly

Your grievance has been reviewed and considered a complaint. The complaint has been reviewed and the following action will be taken

9/7/21
Date

Lt. Chuck E. Rasmussen
Grievance Officer

*If you are not satisfied with the results of your grievance, you may appeal to the sheriff.

SAN PATRICIO COUNTY JAIL INMATE GRIEVANCE FORM

Definition:

1. Violation of Civil Rights
2. Criminal Acts
3. Unjust Denial or Restriction of Inmate Privileges
4. Prohibited act by facility staff

TO: GRIEVANCE OFFICER

FROM: THOMAS O. MARTINEZ
Name of Inmate

H
Cell Block

I wish to file a grievance. I certify that my statement is true and correct to the best of my knowledge and belief.

NATURE OR DESCRIPTION OF THE PROBLEM:

(Please print or write legibly. Include all dates, times and names of persons involved, including witnesses if necessary)

WHY IS THE COUNTY JAIL OFFICERS/STAFF ALLOWED TO ENFORCE
CORPORAL PUNISHMENT ON THE WHOLE DORM WHEN THE OFFICER - / - OFFICERS
CATCH ONE INDIVIDUAL BREAKING THE RULES. THIS IS CRUEL AND UNUSUAL
PUNISHMENT FOR THOSE OF US WHO RESPECT OUR PRIVILEGES.
THE WHOLE DORM WAS PLACED ON TABLET RESTRICTION BECAUSE OF WHAT
ONE PERSON WAS CAUGHT DOING WRONG. OFFICER ARGUED WITH THE ONE
PERSON BUT YET PUNISHED THE WHOLE DORM. WHEN THE REST OF US HAD
NOTHING TO DO WITH WHAT THE INDIVIDUAL GOT CAUGHT DOING.

(If more space needed, continue on back)

8-17-2021
Date

Thomas O. Martinez
Inmate Signature

OVER →

DISPOSITION OF GRIEVANCE

Inmate Name: Thomas Martinez
Cell Location: H Block

Your grievance has been reviewed and disposed of as follows:

8/20/21 I am looking into this situation Lt. Chuck R...
we do not engage in any corporal punishment

Your grievance has been reviewed and considered a complaint. The complaint has been reviewed and the following action will be taken

9/8/21
Date

Lt. Chuck R...
Grievance Officer

*If you are not satisfied with the results of your grievance, you may appeal to the sheriff.

WE HAVE BEEN PUNISHED FOR TWO WEEKS DATING FROM ON OR ABOUT
THE 25TH OF JULY THROUGH AUGUST 8TH

THOMAS MARTINEZ
H-81024